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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 2470/1999
of 23 November 1999
establishing the standard import values for determining the entry price of certain fruit and
vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

- (2) in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 24 November 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 November 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 23 November 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	204	35,2
	999	35,2
0707 00 05	052	104,3
	628	134,8
	999	119,6
0709 90 70	052	86,2
	204	102,4
	999	94,3
0805 20 10	204	60,6
	999	60,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	60,6
	999	60,6
0805 30 10	052	44,5
	528	77,3
	600	63,8
	999	61,9
	039	90,7
0808 10 20, 0808 10 50, 0808 10 90	060	35,1
	388	70,4
	400	77,8
	404	95,1
	800	149,2
	804	26,8
	999	77,9
	052	157,6
	064	62,7
	400	79,1
0808 20 50	720	80,6
	999	95,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2645/98 (OJ L 335, 10.12.1998, p. 22). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2471/1999**of 23 November 1999****amending Council Regulation (EC) No 669/97 opening and providing for the administration of Community tariff quotas for certain fish and fishery products originating in the Faroe Islands**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 669/97 of 14 April 1997 opening and providing for the administration of Community tariff quotas and ceilings, establishing Community surveillance for certain fish and fishery products originating in the Faroe Islands, defining detailed provisions for amending and adapting these measures and repealing Regulation (EC) No 1983/95 ⁽¹⁾, as amended by Commission Regulation (EC) No 1034/98 ⁽²⁾, and in particular Articles 5 and 6 thereof,

- (1) Whereas Decision No 1/99 of the EC/Denmark-Faroe Islands Joint Committee ⁽³⁾ replaced Protocol 1 of the Agreement concerning the tariff treatment and arrangements applicable to certain fish and fishery products released for free circulation in the Community or imported into the Faroes;
- (2) Whereas the new Protocol 1 abolished the clause on reference prices, Community tariff ceilings, and the statistical surveillance currently applied to certain fish and fishery products exempt from customs duties; whereas, therefore, Regulation (EC) No 669/97 should be amended to delete the Articles which introduced these measures, along with Annexes II and III thereto;
- (3) Whereas the duty-free tariff quota for salmon (09.0673) has been replaced by unlimited duty-free imports; whereas most-favoured-nation (MFN) status has been restored for certain products which currently enjoy relief from duty under tariff quotas, notably prepared and preserved herring and mackerel (09.0677), hake fillets (09.0683), crab (09.0685) and mussels (09.0687);

whereas tariff quotas remain for four other products; whereas Annex I to Regulation (EC) No 669/97 should be amended to take account of these changes;

- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 669/97 is amended as follows:

1. In the title, the words 'and ceilings' and the words 'and establishing Community surveillance' are deleted.
2. In Article 1 'Annex I' is replaced by 'the Annex'.
3. Articles 4 and 7 are deleted.
4. Annex I is replaced by the Annex to this Regulation.
5. The quantities imported since 1 January 1999 under tariff quotas with order numbers 09.0671, 09.0675, 09.0679 and 09.0681 applicable by virtue of Regulation (EC) No 669/97 shall count towards the relevant tariff quotas listed in the Annex to this Regulation.
6. Annexes II and III are deleted.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply with effect from 1 August 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 November 1999.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

⁽¹⁾ OJ L 101, 18.4.1997, p. 1.

⁽²⁾ OJ L 148, 19.5.1998, p. 6.

⁽³⁾ OJ L 178, 14.7.1999, p. 58.

ANNEX

FISHERY PRODUCTS SUBJECT TO TARIFF QUOTAS

Order number	CN code	TARIC sub-division	Description	Rate of duty	Quota volume (tonnes)
09.0671	0301		Live fish:		700
			– Other live fish:		
	ex 0301 91 90	*10	– – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
	0302		Fish fresh or chilled, excluding fish fillets and other fish meat of heading No 0304:		
			– Salmonidae, excluding livers and roes:		
	ex 0302 11 90	*10	– – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
	0303		Fish, frozen, excluding fish fillets or other fish meat of heading No 0304:		
	ex 0303 21 90	*10	– – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen:		
			– Fresh or chilled:		
			– – Fillets:		
			– – – Of freshwater fish:		
	ex 0304 10 11	*10	– – – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
09.0675	0304 20		– Frozen fillets:		400
			– – Of freshwater fish:		
	ex 0304 20 11	*10	– – – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
	0304 90		– Other:		
	ex 0304 90 10		– – – Of freshwater fish:		
		*11	– – – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
	1604		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		
			– Fish, whole or in pieces, but not minced:		
	ex 1604 11 00		– – Salmon:		
		*30	– – – Atlantic salmon (<i>Salmo salar</i>)	0	
	1604 19		– – Other		0
	ex 1604 19 10		– – – Salmonidae, other than salmon:		
		*10	– – – – Trout of the species <i>Oncorhynchus mykiss</i>	0	
	1604 20		– Other prepared or preserved fish:		
	ex 1604 20 10		– – – Salmon:		
		*30	– – – – Atlantic salmon (<i>Salmo salar</i>)	0	
	ex 1604 20 30		– – – Salmonidae, other than salmon:		
		*10	– – – – Trout of the species <i>Oncorhynchus mykiss</i>	0	

Order number	CN code	TARIC sub-division	Description	Rate of duty	Quota volume (tonnes)
09.0681	1604		Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		1 200
			– Fish, whole or in pieces, but not minced:		
	1604 19 92		----- Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>)	0	
	1604 19 93		----- Coalfish (<i>Pollachius virens</i>)	0	
	1604 19 94		----- Hake (<i>Merluccius</i> spp. <i>Urophycis</i> spp.)	0	
	1604 19 95		----- Alaska pollack (<i>Theragra chalcogramma</i>) and Pollack (<i>Pollachius pollachius</i>)	0	
	1604 19 98		----- Other	0	
	1604 20		– Other prepared or preserved fish:		
	1604 20 05		-- Preparations of surimi:	0	
	ex 1604 20 90		--- Of other fish:		
		*20	---- Preserved smoked coalfish	0	
			---- Brisling or sprats (<i>Sprattus sprattus</i>):		
		*30	----- In airtight cans ⁽¹⁾	0	
		*35	----- Other	0	
		*40	---- Of mackerel (<i>Scomber australasicus</i>)	0	
		*50	---- Lamprey	0	
		*90	---- Other	0	
09.0679	1605		Crustaceans, molluscs, and other aquatic invertebrates, prepared or preserved:		2 000
	1605 20		– Shrimps and prawns:		
	1605 20 10		-- In airtight containers	0	
			-- Other:		
	1605 20 91		--- In immediate packings of a net content not exceeding 2 kg	0	
	1605 20 99		--- Other	0	
	ex 1605 40 00		– Other crustaceans:		
		*20	-- <i>Nephrops norvegicus</i>	0	

(¹) 'Airtight cans' means cans which are soldered or bonded in such a manner that neither air nor germs can penetrate and which cannot be opened without sustaining damage.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 15 November 1999

amending Decision 91/666/EEC establishing Community reserves of foot-and-mouth disease vaccines

(1999/762/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Whereas:

(1) in accordance with the provisions of Article 13(3) of Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease ⁽³⁾, a decision may be taken to introduce emergency vaccination in a limited area, in circumstances where slaughter of the entire herd may not be sufficient to eliminate the virus;

(2) by Council Decision 91/666/EEC ⁽⁴⁾ Community reserves of foot-and-mouth disease vaccines were established, which are based on stocks of concentrated inactivated antigen capable of being quickly converted into vaccine for emergency use and stored at designated premises;

(3) since the adoption of the said Decision two antigen banks designated for maintaining part of the Community reserve of foot-and-mouth disease antigens

have relinquished their commitments to provide these services to the Community;

(4) in order to comply with Article 3(3) of the aforementioned Decision the need may arise for various reasons to designate appropriate premises within the Community to which the foot-and-mouth disease antigen reserves shall be distributed or relocated for storage;

(5) according to Article 14(3) of Directive 85/511/EEC, the possibility for the Commission to propose to the Council to set up the Community reserves of anti-foot-and-mouth disease vaccines has expired since 1 April 1991;

(6) in order to allow immediate reaction to the need to distribute or relocate the Community reserves of foot-and-mouth disease antigen for storage at different sites, it is necessary to amend Decision 91/666/EEC in particular as regards the procedures laid down for the designation of antigen and vaccine banks,

HAS ADOPTED THIS DECISION:

Article 1

In paragraph 1 of Article 3 of Decision 91/666/EEC:

(a) the first and third indents shall be deleted;

(b) a new indent shall be added as follows:

‘— any other establishment designated in accordance with the procedure laid down in Article 10’.

⁽¹⁾ Opinion delivered on 6 October 1999 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 20 October 1999 (not yet published in the Official Journal).

⁽³⁾ OJ L 315, 26.11.1985, p. 11. Directive as last amended by Decision 92/380/EEC (OJ L 198, 17.7.1992, p. 54).

⁽⁴⁾ OJ L 368, 31.12.1991, p. 21.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 15 November 1999.

For the Council
The President
K. HEMILÄ

COMMISSION

COMMISSION DECISION

of 17 March 1999

on the measures, implemented and proposed, by the Federal State of Bremen, Germany, in favour of Lürssen Maritime Beteiligungen GmbH & Co. KG

(notified under document number C(1999) 756)

(Only the German text is authentic)

(Text with EEA relevance)

(1999/763/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and having regard to those comments,

Whereas:

I. PROCEDURE

By way of an article in *Handelsblatt* on 9 September 1997, the Commission was informed that the Land Bremen, Germany, had implemented the financial measures with which this Decision is concerned, in favour of Lürssen Maritime Beteiligungen GmbH & Co. KG. The Commission requested information on the measures in its letter dated 15 September 1997, and Germany supplied the information by letter dated 24 October 1997.

By letter dated 30 March 1998, the Commission informed Germany of its decision to initiate the procedure laid down in Article 93(2) of the EC Treaty in respect of those measures. Germany submitted its comments by a letter dated 19 May 1998.

The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission invited interested parties to submit their comments on the measures.

The Commission has received comments from interested parties. It has forwarded them to Germany, which was given

the opportunity to react; its comments were received by letter dated 21 October 1998.

II. DETAILED DESCRIPTION OF THE MEASURES

The Bremen Vulkan Verbund AG, the maritime industrial holding with subsidiaries mainly in the shipbuilding but also the machine-building and electronic equipment sectors based in the Federal State of Bremen (hereinafter referred to as 'BVV') fell into acute financial difficulties in late 1995. On 1 May 1996 the responsible Court initiated bankruptcy proceedings under the German Konkursordnung. BVV held a 100 % share in BVM Beteiligungs GmbH, which itself was the sole shareholder of Bremer Vulkan Marine Schiffbau GmbH (hereinafter referred to as 'BVM'), a small engineering company active in acquiring orders for the construction of naval vessels. It was founded mainly to participate in the tendering procedure for the German 'F 124' frigate programme, entailing a volume up to DEM 3 billion in cooperation with Preussag and Thyssen. This company was not subject to bankruptcy proceedings in connection with the breakup of the group.

Given the prospects of BVM for engagement in the construction of the new frigates, the Lürssen Maritime Beteiligungen GmbH & Co. KG (hereinafter referred to as 'LMB') decided to acquire the company's shares. LMB is the holding company for Friedrich Lürssen Werft GmbH (hereinafter referred to as 'Lürssen'), a shipyard located in the north of Bremen. Lürssen is a medium-sized shipyard, primarily active in naval shipbuilding, specialising in smaller naval vessels (minesweepers, combat boats and multipurpose boats) and occasionally in the construction of large yachts and commercial passenger ships. Between 1988 and 1998 [...] ^(*) of the turnover of Lürssen came from naval shipbuilding.

⁽¹⁾ OJ C 252, 11.8.1998, p. 4.

⁽²⁾ See footnote 1.

^(*) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

In the course of negotiations involving the Bremen authorities, LMB agreed to employ 100 former workers and up to 10 trainees. These consist of workers both of BVM and of workers employed in naval shipbuilding by the former Bremer Vulkan Werft GmbH (hereinafter referred to as 'BVW'). LMB claimed that these workers would only be needed to work on the F 124 project, which was postponed until 2000. Bremen then agreed to contribute DEM 4,6 million (EUR 2,3 million) towards the costs of employing them.

Furthermore, the Hanseatische Industrie Beteiligungen GmbH (hereinafter referred to as 'HIBEG'), a company solely controlled by the Federal State of Bremen, waived claims of DEM 5 million (EUR 2,5 million) plus interest of an unknown amount arising from a loan granted to BVM. The amount was used to increase the equity capital of BVM so as to reduce its over-indebtedness.

In addition, the Federal State of Bremen declared its willingness to grant aid of DEM 900 000 (EUR 450 000) for intended investments (15 % of the total investment of DEM 6 million).

The Commission concluded that the above financial measures taken by the Federal State of Bremen constitute state aid within the meaning of Article 92(1) of the EC Treaty and Article 1(d) of Council Directive 90/684/EEC of 21 December 1990 on aid to shipbuilding⁽³⁾ (hereinafter referred to as 'the seventh directive'). The Commission considered the contribution of the State of Bremen towards the costs of the employment by LMB of workers of BVM and former workers of BVW, and HIBEG's waiving of its claims, to be operating aid, and regarded the intended contribution towards the costs of planned investments as investment aid. The aid was considered to benefit Lürssen, which through the acquisition of the shares in BVM had extended its shipbuilding capacity and enjoyed the prospect of involvement in future vessel construction for the German navy.

Operating aid may, pursuant to Article 5 of the seventh Directive, only be considered compatible with the common market if it does not exceed the maximum contract-related aid calculated in proportion to the turnover to the yard and if the Member State concerned furnishes evidence to the extent that the aid is necessary to maintain a shipyard in operation. In the present case no information to that extent was forwarded and the German authorities did not claim that the operating aid was intended to help Lürssen to maintain its operations.

Pursuant to Article 6 of the seventh Directive, investment aid can only be granted as part of a restructuring plan that does not involve any increase in capacity or if it is directly linked to a corresponding irreversible capacity reduction in the capacity of other yards in the same Member State. The intended invest-

ments were not part of a restructuring of Lürssen and there was no intended capacity reduction but an increase of capacity of Lürssen which may potentially be used for commercial shipbuilding falling under the seventh Directive.

For these reasons, the Commission doubted whether the aid measures might be considered compatible with the common market under the provisions of the EC Treaty and the seventh Directive on shipbuilding.

III. COMMENTS FROM INTERESTED PARTIES

LMB and BVM submitted joint comments to the Commission. They supported Germany's comments submitted in a letter dated 19 May 1998, and stated that all financial measures taken are to be considered measures that Germany can take in accordance with Article 223(1)(b) of the EC Treaty for the protection of the essential interests of its security. Naval shipbuilding is considered part of the essential security interests of Germany and, wherever Article 223 of the EC Treaty applies, neither the provisions of Article 92 of the EC Treaty nor those of the seventh Directive on shipbuilding are applicable.

IV. COMMENTS FROM GERMANY

As regards the DEM 4,6 million (EUR 2,3 million) contribution by the State of Bremen towards the employment costs, Germany explains that BVM is an undertaking that was, and indeed in future will be exclusively active in naval shipbuilding. The additional 100 workers were employed only with a view to the future participation in the building of three frigates for the German navy, the F 124 programme, and those workers were needed for carrying out the frigate order. The workers were taken over in October 1997.

Since the building of the frigates will not take place before 2000, these workers would be underemployed for a certain period of time. Bremen had paid the DEM 4,6 million (EUR 2,3 million) to ensure the employment of those workers and to compensate for the costs resulting from their underemployment. However, this amount does not cover all the costs borne by the yard during the time when these workers are not, or not yet, fully employed by the frigate order.

To reduce the loss due to the idleness or underuse of those additional workers during the period when they could not, or not fully, be engaged in naval shipbuilding and especially by the frigate order, they were partly employed during 1997/1998 in the construction of special fast ferries for Indonesia. Had they not been available for this task, Lürssen would have needed to hire workers for the peak periods that could not have been covered by other, permanent workers of the yard. The costs for hiring workers are 50 % less than the full costs of workers that the yard has to bear for workers taken over.

⁽³⁾ OJ L 380, 31.12.1990, p. 27; Directive as last amended by Directive 94/731/EC (OJ L 351, 31.12.1994, p. 10).

As regards the waiver of the DEM 5 million (EUR 2,5 million) loan, Germany explains that HIBEG had granted a loan of DEM 5 million to BVM at the end of 1997 so as to increase BVM's equity and thus make it possible for BVM to continue its participation in the F 124 programme. This amount was paid to BVM. The loan agreement provided that the loan, plus interest, would be deemed to have been forgiven if it was not paid back or, in the event of a third-party acquisition of BVM shares, where the sale proceeds were insufficient for full repayment. This was the case when LMB acquired the shares in BVM, since neither was the loan paid back nor was the sale amount enough for its repayment and consequently, according to the terms of the loan agreement, the loan repayment was waived.

As regards the investment aid, Germany explains that LMB had bought from the administrator of the former BVW yard in Bremer-Vegesack a complete site, consisting of a dockhall, piers and equipment. This site was designed to be used by BVM solely for naval shipbuilding, and the planned investments were to be used only for that purpose. According to Germany, LMB had expressly committed itself to not using the acquired dockhall and related area, either for the building, or for the repair or conversion of merchant vessels. LMB had also committed itself to carrying on naval shipbuilding in Bremer-Vegesack at least until 31 December 2002. Consequently, the entire capacity of the former BVW for the building, repair and conversion of merchant vessels has been closed down.

Germany refers to Commission Decision 97/616/EC of 21 May 1997 on the closure aid granted to Bremer Vulkan Werft GmbH ⁽⁴⁾, where it is stated that 'the bankruptcy administrator is currently engaged in selling the shares in Bremer Vulkan Marineschiffbau GmbH, a subsidiary of Bremer Vulkan Verbund AG, together with a dock owned by the yard, to Friedrich Lürssen Werft GmbH; Germany, on behalf of the bankruptcy, administrator has given assurances that this dock will only be used for activities not qualifying as shipbuilding activities pursuant to Directive 90/684/EEC. The dock is to be used by Friedrich Lürssen Werft GmbH for building naval vessels and yachts, which fall outside that Directive.... Even the fact that the dock is likely to be sold to Friedrich Lürssen Werft GmbH does not change the principle that the capacity reduction will be genuine and irreversible. The dock will be only used for naval shipbuilding and for yachts, activities not falling within the scope of Directive 90/684/EEC'.

Germany stresses that BVM is only active in naval shipbuilding. It also contests the Commission's opinion that the aid measures benefit Lürssen. In Germany's opinion, the financial measures benefit BVM only as an undertaking specialised in naval shipbuilding. These measures aim only to make it possible to continue activities in the field of naval shipbuilding, especially through participation in the F 124 frigate programme. For these reasons, Germany asserts that the financial measures in

question constitute measures that Germany is permitted by Article 223(1)(b) of the EC Treaty to take, for the protection of the essential interests of its security.

Germany explains that the safeguarding of the essential security interests of the Federal Republic means that a minimum industrial capacity for the military core capabilities in the building of naval combat ships is to be guaranteed. This minimum capacity was achieved in 1994 through the inclusion of Lürssen. Germany refers to the letter from the Ministry of Defence of 26 May 1998 to the Freie Hansestadt Bremen, in which it is stated that 'there are security and defence interests involved in maintaining the existing core capabilities in naval shipbuilding as a basis for an autonomous and adequate fitting-out of the German navy. These naval shipbuilding capabilities are further relevant to the ability to cooperate with other NATO and EU Member States and also with other friendly and economically allied states'.

Consequently, according to Germany, naval shipbuilding is considered part of the essential security interests of Germany and in the context of Article 223 of the EC Treaty, whereas neither the provisions of Article 92 of the EC Treaty nor those of the seventh Directive on shipbuilding are applicable.

V. ASSESSMENT OF THE MEASURES

The financial measures taken and to be taken by the Federal State of Bremen are measures granted through state resources favouring a particular undertaking engaged in business that is subject to trade between Member States. These measures relieve the undertaking of part of its operating and investment costs and thereby afford it an economic advantage over companies not receiving such financial support. Therefore the measures constitute state aid within the meaning of Article 92(1) of the EC Treaty and Article 61(1) of the EEA Agreement. The Commission notes that the measures were not notified to the Commission pursuant to Article 93(2) of the EC Treaty.

The Commission notes that not only Germany but also the interested parties, BVM and LMB, have in their comments argued that Article 223(1)(b) of the EC Treaty was applicable to the financial measures in question. Article 223(1)(b) reads as follows:

'1. The provisions of this Treaty shall not preclude the application of the following rules:

- (b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes'.

⁽⁴⁾ OJ L 250, 13.9.1997, p. 10.

The Commission notes that according to the information submitted to it by Germany, Lürssen is a yard almost exclusively engaged in naval shipbuilding: [...] * of its turnover for 1988 to 1998 derives from naval construction. BVM, which became a subsidiary of Lürssen after acquisition by LMB, is a yard exclusively concerned with naval shipbuilding and is currently participating in the frigate programme for the German navy. The additional 100 workers taken over by LMB are former workers of BVM and workers formerly employed in naval shipbuilding in BVW, which implies that they have the experience and skills needed in this field. According to Germany and the interested parties, those workers were necessary for carrying out the frigate order. The loan granted to BVM by HIBEG was designed to enable BVM to continue its participation in the frigate programme. The investment aid planned for LMB is to be used exclusively for the upgrading of the dock bought by LMB from the former BVW in order to make it suitable for naval shipbuilding by 31 December 2002. Consequently, all the measures relate to naval shipbuilding, and especially the frigate programme of the German navy.

According to Germany, maintaining a minimum capacity in naval shipbuilding is part of safeguarding its essential security interests. This argument has been confirmed in the letter of the Ministry of Defence to the Freie Hansestadt Bremen. The Commission accepts this argument, provided that the financial measures in question do not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

The Commission notes that according to information submitted to it by Germany, the only non-naval shipbuilding task that the workers employed for carrying out the frigate order have been involved in, and will in future be involved in, is the work on the three fast ferries for Indonesia in 1997/1998. This is a development aid project approved by the Commission on 27 March 1996⁽⁵⁾. Had these workers not been available for the task, Lürssen would have needed to hire workers outside at half the cost of the employers taken over from BVM and BVW: the aid in question covers less than the difference in cost. Consequently, Lürssen obtained no economic advantage in using these workers. Therefore, the measures taken do not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

As far as the waiver of the loan granted to BVM by HIBEG is concerned, the Commission notes that the loan was granted to BVM, which is an undertaking engaged solely in naval shipbuilding, and the loan was granted to make it possible for BVM to continue its participation in the frigate programme for the German navy. Therefore, the measure taken does not adversely affect the conditions of competition in the common market

regarding products which are not intended for specifically military purposes.

As regards the investment aid planned to be granted for upgrading the dock and the related area acquired from the former BVW, Commission Decision 97/616/EC of 21 May 1997 on the closure aid granted to Bremer Vulkan Werft GmbH⁽⁶⁾ expressly states that the dock and the area related to it are to be used only for naval shipbuilding or building of vessels which do not fall under the seventh Directive on shipbuilding. The planned aid is only to be used for these activities. Consequently, as far as the investment concerns the use of the dock in naval shipbuilding, the measure is considered not to have any effect on competition as regards products not intended for military purposes.

Nevertheless, as far as the investment relates to the use of the dock and the surrounding area for building other vessels, the measure is considered to have an effect on competition as regards these vessels.

According to Germany, the dock in question will only be used for construction, conversion and repair of naval ships and large yachts. A notarial contract ensures that no commercial shipbuilding will be carried out in Bremen-Vegesack until at least 31 December 2003. After that date, any commencement of commercial shipbuilding in the area is subject to the approval of the Commission. This ensures that the closure of the former Bremer Vulkan Werft for commercial shipbuilding is final, in conformity with Decision 97/616/EC.

The Commission notes the undertakings of the German Government, according to which the dock in question will only be used for the construction, conversion and repair of naval ships and large yachts, which do not fall under the scope of the seventh Directive. Therefore, as far as the dock is used for yachts, the investment aid is to be assessed in accordance with the provisions of Article 92 of the Treaty.

The Commission further notes that the planned investment aid of DEM 900 000 (EUR 450 000) is based on the approved regional aid scheme known as Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsstruktur (GRW)⁽⁷⁾, representing 15 % of the planned total investment of DEM 6 million. Therefore, as far as the investment aid relates to yachts, it is compatible with the common market within the meaning of Article 92(3)(c) of the EC Treaty.

For these reasons, the Commission concludes that the scope of Article 223(1)(b) of the EC Treaty covers the measures taken and to be taken by the Federal State of Bremen in favour of naval shipbuilding and in favour of Lürssen Maritime Beteiligungen GmbH & Co. KG. Therefore, Article 92(1) of the EC Treaty is not applicable to those measures.

⁽⁵⁾ Aid N 87/96, (OJ C 215, 25.7.1996).

⁽⁶⁾ See footnote 4.

⁽⁷⁾ OJ C 341, 11.11.1997, p. 4.

In this context, the Commission wishes to draw Germany's attention to Article 11(2) of Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding⁽⁸⁾. That provision provides that in case of shipyards engaged in both commercial and military shipbuilding, ship repair or ship conversion, the regular reports shall be accompanied by an attestation by the statutory auditor certifying the apportionment of the overheads to these two fields. In addition, separate information is to be submitted on the turnover in the commercial and military fields.

VI. CONCLUSIONS

The Commission finds that the financial measures taken and to be taken by the Federal State of Bremen, Germany, in favour of naval shipbuilding are measures necessary for the protection of the essential interests of Germany's security within the meaning of Article 223(1)(b) of the EC Treaty. Consequently, Article 223(1)(b) applies to these measures. Since application of Article 223 of the EC Treaty precludes application of other Articles, Articles 92 and 93 of the EC Treaty are not applicable to the measures.

The investment aid of DEM 900 000 (EUR 450 000), as far as it relates to the building, conversion or repair of yachts, is compatible with the common market pursuant to Article 92(3)(c) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The measures which Germany has implemented and will implement in favour of naval shipbuilding and in favour of Lürssen Maritime Beteiligungen GmbH & Co. KG, totalling DEM 10,5 million (EUR 5,25 million), are measures necessary for the protection of Germany's essential security interests within the meaning of Article 223(1)(b) of the EC Treaty. Accordingly, Articles 92 and 93 of the EC Treaty are not applicable to those measures.

The investment aid of DEM 900 000 (EUR 450 000), as far as it relates to building, conversion or repair of yachts, is compatible with the common market pursuant to Article 92(3)(c) of the Treaty.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 17 March 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

⁽⁸⁾ OJ L 202, 18.7.1998, p. 1.

COMMISSION DECISION
of 15 November 1999
amending Decision 98/587/EC on financial aid from the Community for the operation of certain
Community reference laboratories in the veterinary field

(notified under document number C(1999) 3752)

(Only the Spanish, Danish, German, English, French, Italian, Dutch and Swedish texts are authentic)

(1999/764/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Regulation (EC) No 1258/1999 ⁽²⁾, and in particular Article 28(2) thereof,

- (1) Whereas by Commission Decision 98/587/EC of 9 October 1998 on financial aid from the Community for the operation of certain Community reference laboratories in the veterinary field ⁽³⁾, as last amended by Decision 1999/53/EC ⁽⁴⁾, provisions were established for providing financial assistance to certain Community reference laboratories;
- (2) Whereas for budgetary reasons, the Community financial assistance provided for in Decision 98/587/EC requires presentation of supporting documents; whereas the requirements related to these supporting documents are specified in the said Decision;
- (3) Whereas a request has been made for an extended period for the submission of supporting documents;

- (4) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

In Article 16, point (b) of Decision 98/587/EC, the word 'three' is replaced by the word 'five'.

Article 2

This Decision is addressed to the Kingdom of Denmark, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Kingdom of Sweden, and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 15 November 1999.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 282, 20.10.1998, p. 73.

⁽⁴⁾ OJ L 17, 22.1.1999, p. 54.

COMMISSION DECISION

of 15 November 1999

amending Decision 96/519/EC on financial aid from the Community for the work of the Rijksinstituut voor de Volksgezondheid en Milieuhygiëne (RIVM), Bilthoven, Netherlands, a Community reference laboratory for residue testing

(notified under document number C(1999) 3753)

(Only the Dutch text is authentic)

(1999/765/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Regulation (EC) No 1258/1999 ⁽²⁾, and in particular Article 28(2) thereof,

- (1) Whereas by Commission Decision 96/519/EC of 29 July 1996 on financial aid from the Community for the work of the Rijksinstituut voor de Volksgezondheid en Milieuhygiëne (RIVM), Bilthoven, Netherlands, a Community reference laboratory for residue testing ⁽³⁾, provisions were established for providing financial assistance to that Community reference laboratory;
- (2) Whereas for budgetary reasons, the Community financial assistance provided for in Decision 96/519/EC requires presentation of supporting documents; whereas the requirements related to these supporting documents are specified in the said Decision;
- (3) Whereas a request has been made for an extended period for the submission of supporting documents;

- (4) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

In Article 4 of Decision 96/519/EC the date '1 October 1998' is replaced by '1 May 1999'.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 15 November 1999.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 217, 28.8.1996, p. 10.